

AMENDED IN ASSEMBLY APRIL 14, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 73**

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**Introduced by Assembly Member Feuer**

December 21, 2010

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An act to add Section 346.5 to the Welfare and Institutions Code, relating to juveniles.

### LEGISLATIVE COUNSEL'S DIGEST

AB 73, as amended, Feuer. Dependency proceedings: public access.

Existing law provides that the public shall not be admitted to a juvenile court hearing in a dependency proceeding, unless requested by a parent or guardian and consented to or requested by the minor concerning whom the petition has been filed. Existing law permits the judge or referee to admit those persons as he or she deems to have a direct and legitimate interest in the particular case or the work of the court.

This bill would require, contingent upon the securing of private funding, the Judicial Council to establish a 4-year pilot project in 3 counties to create a presumption that juvenile court hearings in juvenile dependency cases be open to the public, unless the court finds that admitting the public would not be in a child's best interest, as provided. The bill would require the Judicial Council to contract with an independent organization to conduct an evaluation and prepare a report to the Legislature regarding the results of the pilot project, as specified. The bill would also include a related statement of legislative findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Many states increasingly permit or require public access to  
4 juvenile court hearings in juvenile dependency cases involving  
5 abuse and neglect.

6 (b) Pursuant to Section 346 of the Welfare and Institutions Code,  
7 California is currently among the states that require that all  
8 proceedings in juvenile dependency matters be closed to the public,  
9 except under specified circumstances.

10 (c) It is difficult for the public or the Legislature to address  
11 problems or inadequacies in a *court* system if the system is hidden  
12 from public view. Public access to juvenile court hearings has the  
13 benefits of ensuring that the child welfare system, *including the*  
14 *dependency courts*, can be held more accountable, and of educating  
15 the public about the needs of the child welfare system.

16 (d) California has a compelling interest in protecting the privacy  
17 rights of abused or neglected children in order to protect them from  
18 further harm. Children's privacy rights can be protected by keeping  
19 children's identity information confidential and providing juvenile  
20 court judges the discretion to close completely individual hearings  
21 based on the circumstances of the cases and the needs and best  
22 interests of specific children, while presumptively ensuring those  
23 proceedings are open and transparent.

24 SEC. 2. Section 346.5 is added to the Welfare and Institutions  
25 Code, to read:

26 346.5. (a) Notwithstanding Section 346, and subject to securing  
27 funding as set forth in subdivision (k), the Judicial Council shall  
28 establish a four-year pilot project in the County of Los Angeles,  
29 the County of Ventura, and the County of \_\_\_\_ to impose a  
30 presumption that members of the public shall be admitted to a  
31 juvenile dependency court hearing, subject to the limitation set  
32 forth in subdivision (e), unless the court finds that admitting the  
33 public would not be in the child's best-interest *interests*.

34 (b) At the commencement of a juvenile court hearing, the court  
35 shall explain to the parties and to all present in the courtroom that

1 the hearing is presumptively open to the public unless admitting  
2 the public would not be in the child's best interests. The court shall  
3 thereafter inquire of the parties if there is any reason the hearing  
4 should be closed to the public. If the hearing remains open, the  
5 court shall admonish all individuals in the court of the restrictions  
6 provided in subdivision (e), and shall prohibit all individuals in  
7 the court, other than court employees or the court reporter, from  
8 taking photographs or making audio, video, or other recordings of  
9 the court proceeding.

10 (c) Prior to the hearing, the child's attorney shall advise the  
11 child, in an age-appropriate manner, of the right to request that the  
12 hearing be closed. If there is no attorney present on behalf of the  
13 child, the court shall, at the commencement of a juvenile court  
14 hearing, advise the child of the right to request that the hearing be  
15 closed.

16 (d) If an objection is made pursuant to this section by the child's  
17 attorney, or any other party to the proceeding, or if the court on  
18 its own motion wants the proceeding to be closed to the public,  
19 the court shall consider whether opening the proceedings to the  
20 public is contrary to the child's best interests. The Judicial Council  
21 may adopt guidelines of factors that courts should consider when  
22 determining the best interest of the child under this section.

23 (e) (1) The court shall take appropriate action to keep personally  
24 identifiable information about the child or about the child's sibling  
25 or parent confidential and to prevent release of that information  
26 in any court hearing open to the public, including, but not limited  
27 to, directing all parties, their attorneys, and witnesses to refrain  
28 from disclosing any personally identifiable information in open  
29 court.

30 (2) For purposes of this section, "personally identifiable  
31 information" means the ~~first and last name~~, address, date of birth,  
32 social security number, tribal enrollment number, telephone  
33 number, e-mail address, driver's license number, place or places  
34 of employment, school identification number, military  
35 identification number, or any other distinguishing characteristic  
36 that tends to identify ~~a particular person~~ *the child or the child's*  
37 *sibling or parent*.

38 (f) Nothing in this section may limit the court's right to take the  
39 child's testimony in chambers pursuant to Section 350.

1 (g) At any point in the proceedings, the court may, in its  
2 discretion, on its own motion or upon motion of persons specified  
3 in subdivision (d), close the proceedings to the public.

4 (h) Notwithstanding any other provision of this section, the  
5 court may admit any person whose attendance is required by the  
6 court.

7 (i) Nothing in this section shall change the confidential status  
8 of juvenile court records, the inspection of which remains subject  
9 to the provisions of Section 827.

10 (j) The Judicial Council shall contract with an independent  
11 organization to conduct an evaluation and prepare a report to the  
12 Legislature regarding the results of the pilot project, with a  
13 recommendation as to whether the project should be implemented  
14 on a statewide basis. The report shall be submitted to the  
15 Legislature within six months of the completion of the four-year  
16 pilot project. The report shall include both qualitative and  
17 quantitative analysis on open hearings and shall measure the effects  
18 of opening the proceedings on children. The report shall include,  
19 but not be limited to, all of the ~~following information:~~ *following:*

20 (1) Whether open proceedings were found, on balance, to be  
21 ~~contrary to~~ *in* the best interests of the children involved in the  
22 proceedings.

23 (2) Whether having open proceedings generally served to raise  
24 public awareness regarding the juvenile dependency and foster  
25 care systems.

26 (3) Whether public opinion of the juvenile dependency and  
27 foster care systems appeared to be enhanced as a result of having  
28 open proceedings.

29 (4) The type of media coverage, if any, that was generated  
30 regarding the juvenile dependency and foster care systems as a  
31 result of the pilot project.

32 (5) Whether ideas for improving the foster care system,  
33 including ideas for legislation to benefit children, appear to have  
34 been potentially generated as a result of the pilot project.

35 (6) *The manner in which judicial discretion has been exercised,*  
36 *along with a list of criteria to guide the exercise of that discretion.*

37 (k) The pilot project shall begin within one year of securing  
38 private funds to fund the entire pilot project and the evaluation  
39 required by subdivision (j). The implementation of the pilot project

- 1 is contingent upon securing sufficient private funds to fund the
- 2 pilot project and the evaluation.

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